

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

**MALIBU MEDIA, LLC,**

**Case Nos. 3:14-cv-150**

**Plaintiff,**

**Judge Thomas M. Rose**

**-v-**

**JOHN DOE,**

**Defendant.**

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**ENTRY AND ORDER GIVING MALIBU MEDIA UNTIL NOT LATER  
THAN THIRTY (30) DAYS FROM ENTRY OF THIS ORDER TO  
CORRECT PLEADING PROBLEMS AND VACATING GRANTING OF  
DISCOVERY ORDER**

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Malibu Media LLC (“Malibu”) has filed four cases that are now before this Federal Judge. Each of these cases name an unidentified John Doe as the Defendant and Malibu has filed a Motion for Discovery in each to learn the identity of the John Does. However, this Judge is not able to proceed to adjudicate these cases because of pleading problems.

First, Malibu has not presented *prima facie* evidence of copyright ownership of the specific copyrights at issue. Malibu pleads that it owns the copyrights at issue in its unverified Complaint but there is no evidence from which a court could conclude that Malibu has made a *prima facie* showing of ownership.<sup>1</sup>

Second, Malibu’s Complaint alleges that it has traced the allegedly infringing IP address to a physical address that is located within this Court’s venue. The Complaint later alleges that Malibu knows only the IP address and seeks to learn, among other things, the associated physical

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<sup>1</sup>The Declaration of Colette Fields attached to the Complaint is invalid because it is not dated and, if it were valid, does not indicate ownership of the specific copyrights at issue.

address. The Court is unclear as to whether or not Malibu knows the physical address of the alleged infringer. If it does, why does it seek to again learn it? If it does not, how was venue determined?

The Court is unable to proceed to adjudicate Malibu's Complaint until the above-stated pleading problems are corrected. Therefore, Malibu is given until not later than thirty (30) days following entry of this Order to correct the above-stated pleading problems.

Finally, the Court has previously note-granted a motion for discovery. (Doc. #2.) Since the Court is unable to further adjudicate this claim at this time, that notation order is hereby vacated. If Malibu has already sought the discovery, Malibu is to notify the entity from which it has sought the discovery that the notation order granting discovery has been vacated.

**DONE** and **ORDERED** in Dayton, Ohio this Second Day of July, 2014.

s/Thomas M. Rose

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THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record